

1200 Delegations Manual – Introduction

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A. PURPOSE.

This document sets forth the U.S. Environmental Protection Agency policy and procedures governing the EPA's delegations of authority.

Delegations of authority represent the formal assignment or commitment of legal power, usually to subordinate officials, to make decisions and take actions that have legal significance.

Delegations provide basic direction from the Administrator to agency officials to carry out these responsibilities on the Administrator's behalf. Some delegations may be further redelegated to subordinate officials. In order for agency management, employees and representatives to act on behalf of the Administrator, the authority granted by the Congress or the Executive branch must be delegated by the Administrator.

These delegations are recorded in the agency's manual, 1200 Delegations Manual. This manual is a record of the authority of an agency official to act on behalf of the Administrator. This manual is both a legal and management document. First, it is a legal record documenting which agency officials have authority to act on behalf of the Administrator. Second, it is a record of the operating conditions among the agency's organizations and individuals as they carry out delegated authorities. The manual is maintained by the central directives officer in the Office of Administration and Resources Management, Office of Human Resources, Program Management Staff.

For authorities that are redelegated, each assistant administrator's office, region and applicable laboratory and field locations is required to maintain written redelegations that are readily available to officials in those respective offices. These redelegations require periodic review and update to ensure they are current.

B. POLICY.

Delegations and redelegations are governed by the following tenets:

1. **General.** The Administrator delegates authority to senior management officials reporting directly to the Administrator, e.g., assistant administrators, regional administrators, associate administrators, the general counsel, staff office directors reporting directly to the Administrator, and the inspector general. If the delegation permits, these officials may sequentially redelegate the authority to subordinate levels within their organizations.
2. **Delegations by title.** Generally, delegations and redelegations should be made to the incumbent of official positions using the title of the position. Authority delegated to a position by title may be exercised by a person designated to serve in such position in either a permanent or acting capacity. A redelegation to named person X in the capacity of position Y will be considered a redelegation to position Y by title.
3. **Redelegations.** Authority may be redelegated only when permitted in the delegation. However, where a delegation of authority is contained in a regulation, the authority may

- be redelegated, unless expressly provided otherwise in the regulation. All limitations in the original delegation must be carried forward into the corresponding redelegation. Redelegations should be made sequentially from one level to the next, e.g. assistant administrator to office director to division director, rather than from the assistant administrator directly to a division director. When the lowest official to whom an enforcement authority can be redelegated is an attorney, the original delegatee can still redelegate the authority to non-legal enforcement managers as appropriate (i.e., a regional administrator may redelegate authorities to both enforcement program and legal managers), but when redelegating to the staff level, the authority can only be redelegated to legal staff. A redelegation does not release the original delegatee or any redelegates from responsibility or accountability.
4. **Retained authority upon delegation or redelegation.** An official who delegates or redelegates an authority, including the Administrator, retains the right to exercise or withdraw the authority that official has delegated or redelegated. Delegated or redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically delegated or redelegated.
 5. **Conformance with limitations.** An official to whom an authority is delegated or redelegated must exercise such authority in conformance with any requirements or limitations that govern its use. Such requirements may be found within the limitations section in the agency delegation of authority or redelegation, as well as within applicable statutes, regulations, executive orders, the Office of Management and Budget guidance, agency directives, policy guidance and national program guidance.
 6. **Delegations made in writing.** Delegations and redelegations must be made in writing and must include a date when the delegation or redelegation becomes effective. A copy of redelegations for a particular region, assistant administrator office or other senior management office should be maintained either electronically or in a central location readily accessible to employees. Offices should consider placing redelegations, to the extent practicable, on their intranet site.
 7. **Code of Federal Regulations as interim delegation.** To the extent that a delegation of authority is contained in a part of the Code of Federal Regulations, it shall serve as an interim delegation until a permanent delegation of authority is made by the Administrator and incorporated into the delegation manual. Programs should make certain that delegations based on sections of the CFR are drafted and incorporated into the delegations manual as soon as practical after a delegation in the CFR is published.
 8. **Geographic limitations.** Generally, unless authorized by a specific delegation, regional administrators and other field officials will exercise delegated authorities only within the geographic boundaries of their respective regions, laboratories, centers, facilities, complexes or other assigned areas.
 9. **Chain of command.** Generally, officials redelegate within their chain of command. However, sometimes redelegation outside the delegatee's direct supervisory chain of command is appropriate. For example, as the National Program Manager for Enforcement, the assistant administrator for the Office of Enforcement and Compliance Assurance may redelegate enforcement authorities to enforcement officials in the regions even if the assistant administrator does not directly supervise those officials. In addition, although regional counsels are supervised directly by either the General Counsel or the Office of Enforcement and Compliance Assurance, they also report to the regional

administrator. Therefore, a regional administrator may redelegate authority to the regional counsel in their region.

10. **Redelegation to, and limitations requiring coordination with, regional counsel.** Some delegations allow re delegation to a regional counsel or equivalent, and/or require the official exercising delegated authority to consult or otherwise coordinate with a regional counsel or equivalent before acting. In some regions, the highest-level legal enforcement manager is not the regional counsel. Thus, in delegations involving enforcement authorities, where the re delegation floor is regional counsel or equivalent, the delegation is interpreted to allow re delegation to the highest-level legal enforcement manager in the region. Similarly, in delegations involving enforcement authorities, any limitations to coordinate with regional counsel or equivalent can be satisfied by coordinating with the highest-level legal enforcement manager in the region.
11. **Amendments to delegations.** If a delegation is amended to add a delegated authority but the original delegated authorities remain unchanged, any redelegations that have been made regarding the unchanged authorities will remain in full force and effect unless specifically rescinded.

C. CONSIDERATIONS REGARDING PROPOSED DELEGATIONS OF AUTHORITY.

Helpful considerations when developing delegations of authority:

1. **Efficient program implementation.** If an action is recurring, the authority should be delegated from the Administrator to the appropriate senior management official, and ultimately to the lowest organizational level capable of performing the task.
2. **Administrative updates.** Delegations are issued by the Administrator. A revision to an existing delegation that substantially deviates from or adds a responsibility to a previously approved delegation requires new approval through the directives clearance review process. Amended delegations that do not represent new authority and are primarily administrative in nature may be considered for an administrative update implemented by the CDO. Administrative revisions may include but are not limited to program name/organizational transfers/position-function updates from an agency-approved reorganization and certain clarification on procedural guidance or legislatively changed programmatic features within the existing approved authority. All proposed delegation revisions are reviewed for potential administrative updates and final decisions are coordinated with legal counsel.
3. **Geographic scope.** If the responsibilities principally affect regional or field operations, the authority should be delegated to the regional administrator(s) or senior official of the field office. Generally, if the actions are multi-regional or national in significance, the authorities are retained by the Administrator or delegated to senior officials at headquarters. The Administrator may choose; however, to delegate authority to one regional administrator to exercise on behalf of all regions due to the delegated region's expertise or to further efficiencies when an action involves more than one region.
4. **Policy content.** If action under the authority is likely to set legal or programmatic precedents, it should remain with the Administrator or assistant administrator(s). For example, actions such as rulemaking and standard setting which set long-term commitments for the agency and which often affect more than one program are generally reserved to the Administrator.

5. **Links to other program or agency actions.** When authorities are delegated to both headquarters and regional officials or to more than one headquarters office, the delegation should indicate as clearly as possible the circumstances under which each delegatee should exercise the authority.
6. **Additional questions to consider:**
 - a. What type of action(s) will the delegatee perform to exercise the proposed authority? If the delegation involves the signature of a letter, notice, order, permit or award document, is this the final step in the process? Is the authority permanent and likely to be recurring or will the authority change in the foreseeable future? Does the authority to approve an action also mean that the delegatee will disapprove actions? Unless otherwise specified, the presumption is that the authority to approve an action also confers the authority to disapprove the action.
 - b. Are limitations to the delegation of authority necessary to assure coordination, legal sufficiency and/or program consistency? If they are necessary, notification and/or consultation, rather than advance concurrence are the preferred types of limitations. Types of limitations are discussed further in the limitations section.
 - c. Should redelegation be authorized? If so, why, and to which level, either in headquarters or the regional offices? Unless specifically stated otherwise, the original delegates generally should redelegate only within their respective chains of command. All delegations should specify the lowest level an authority may be redelegated (the redelegation floor).

D. PROCEDURES.

Guidelines for when and how a directives clearance review is conducted.

1. Before a proposed delegation of authority is submitted to the Administrator, it is subject to agency directives clearance review. A copy of the proposed delegation is circulated to all agency offices and regions to review and offer comments. The initiating office is responsible for addressing any comments received and resolving the comments or amending the proposed delegation of authority as appropriate. The CDO is responsible for managing the review process and maintaining a record of all approved delegations of authority.
2. In addition to the administrative amendments discussed above, there are two additional potential exceptions to the requirement of agencywide directives clearance review. First, delegations that repeat without amendment authority expressly specified in applicable statutes, regulations, executive orders or policy guidance do not require agencywide clearance review. Second, proposed delegations that have a limited scope of impact and/or do not materially affect operations outside of the initiating program may also receive consideration for an exemption from the DCR. Modified reviews which reduce the 15-business day review may also be used to streamline the DCR process in the event of time sensitive authorities and other high priority agency needs.
3. Temporary delegations of authority which usually provide authority for a one-time activity or where the activities do not exceed one year in duration, do not require agencywide directives clearance review. Although not subject to agency review,

temporary delegations of authority must be issued by the Administrator and are included in the Delegations Manual. The Administrator always has discretion to issue delegations of authority without using the DCR process.

4. The agencywide clearance review process for delegations consists of the following steps:
 - a. Prior to proposing a new delegation of authority or a revision to an existing delegation, the initiating office should consult with the CDO and Office of General Counsel/program counsel who will review existing delegations to determine if there is any conflict or overlap with the proposed authority.
 - b. The initiating office drafts a proposed delegation using the format detailed in Part E, and discusses the proposal with the affected offices before it is submitted for DCR. The initiating office must secure the OGC concurrence on the proposed delegation prior to requesting DCR.
 - c. The initiating office prepares a request memorandum from its assistant administrator/regional administrator to the director, OHR PMS, requesting the CDO to begin the review process. The memorandum explains the proposed delegation of authority in terms of the criteria in Section C above.
 - d. The CDO determines which organizations are included in the directives clearance review. Proposed directives are circulated for a maximum of 15 business days. Comments including “no comment,” “advisory comment” or “issue resolution comment” are submitted electronically to the CDO via EPA Form 1315-17 by the review closing date. Programs that do not submit written comments by the closing date are considered to have submitted a “no comment” response.
 - e. Upon receipt of the final revised draft delegation from the initiating office, the CDO finalizes the package for issuance by the Administrator. Edits to the delegation of authority occurring during the review routing must receive program and the OGC’s approval.
 - f. All new and revised delegations must be signed and issued by the Administrator, or Deputy Administrator if he or she is acting for the Administrator unless the Deputy Administrator is prohibited by statute from issuing a delegation on behalf of the Administrator.

E. FORMATTING DELEGATIONS OF AUTHORITY AND REDELEGATIONS.

To promote consistency throughout the agency, all delegations of authority are issued in writing and published on the directives website. Delegations should adhere to the Five Point format:

- a. **Section 1. AUTHORITY.** This section describes the specific authority being delegated, including a citation to the relevant statute, regulation or executive order as appropriate. Any statutory or regulatory citations refer to the most recent versions of those statutes and regulations; these citations should be updated when changes occur to the statute or regulation. Citations to recurring authority should be written in a manner that does not expire with periodic versions of the regulation, e.g., yearly appropriation legislation. Citations to statutes implicitly include any implementing regulations.
- b. **Section 2. TO WHOM DELEGATED.** This section identifies, by title, the senior agency official(s) to whom the Administrator delegates the authority.
- c. **Section 3. LIMITATIONS.** This section delineates any conditions or restrictions placed on the exercise of the authority. If the authority does not contain limitations, this section

should indicate that there are none. Most often, limitations establish operating procedures between organizations which share the delegated authority or which are responsible for separate parts of a process. As noted in section B.5., any limitations placed on an original delegatee apply to an official to whom the authority is redelegated. The following are terms frequently used in the limitations paragraph. Other limitations may be used if the parameters of the limitations are defined in the delegation of authority:

- i. "Must notify": The delegatee must inform the other official(s) named. Notification may take place before or after the authority is exercised, but the limitation should specify when the notification should occur.
- ii. "Must consult with": The delegatee must discuss the action with the other named official(s) on the proposed action prior to exercising the authority.
- iii. "Must obtain advance concurrence": Except where specified otherwise, the delegatee must obtain the written agreement of the other official(s) named before exercising the authority.
- iv. "May be waived": The official(s) who must concur, be notified, or be consulted by the delegatee may waive the limitation. The delegatee should maintain a written record of the waiver of any limitation.
- v. Dollar limitations may also be used in conjunction with limitations; e.g., for expenditures over a certain dollar amount, the delegatee must consult with another office.

The other official named in any limitation (e.g., the other official receiving notice) may designate another person within his or her organization to act on his or her behalf.

- d. **Section 4. REDELEGATION AUTHORITY.** This section indicates whether the authority may be redelegated to a lower level within the delegatee's organization.
 - i. If the authority may be redelegated, this section must identify the lowest official within the delegatee's organization to whom the authority may be redelegated (redelegation floor).¹
 - ii. All delegations to the assistant administrator level at headquarters should authorize redelegation at least to the principal deputy assistant administrator level unless prohibited by law.
 - iii. For delegations other than those to assistant administrators, if the authority cannot be redelegated, this section must state so explicitly by indicating that there are none.

EPA's regional offices are not required to have the same organizational structures or to use particular job titles. Therefore, some officials may encumber an "equivalent" position that is described in some other manner. For purposes of regional enforcement delegations, the following chart may be helpful in determining "equivalent" positions in a region.

Title Specified National Delegation	Equivalent Regional Position
Office director	First supervisory level down from regional administrator
Division director	Second supervisory level down from RA
Branch chief	Third supervisory level down from RA
Section chief	Fourth supervisory level down from RA

- iv. All delegations or redelegations must contain the following language in the redelegations section: *An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.*
- e. **Section 5. ADDITIONAL REFERENCES.** Information in this section is optional, but it can be very helpful to include references. If used, it may contain citations that support or clarify the delegated authority; i.e., any relevant regulations, statutes, or guidance. This paragraph has no legal effect on delegated authorities. If the authority does not contain references, this section should indicate that there are none.

F. PERIODIC REVIEW.

The OHR and the OGC will periodically review the 1200 Delegations Manual to ensure its continued effectiveness. The CDO will secure input and circulate updated information to the agency via the directives clearance file managers' system.